

**Minutes of the meeting of the  
Commonwealth Competition Council  
held Wednesday, January 7, 2004, 10 a.m.  
General Assembly Building, Senate Room B, First Floor  
Richmond**

**Members present:**

Senator Emmett W. Hanger, Jr., Chairman  
Robert A. Archer, Vice Chair  
Sandra D. Bowen  
Richard D. Brown  
Beverly B. Davis  
Marcus D. Jones  
Delegate Allen L. Louderback  
Edgardo Marquez  
Marian M. Pegram  
Delegate Thomas D. Rust  
Senator John C. Watkins  
Sara Redding Wilson

**Members absent:**

David M. Zobel  
Roy Page

**One vacancy**

Notice of the meeting appeared in the Commonwealth Calendar on the Internet and individual notices were sent to those asking to be notified of all Commonwealth Competition Council meetings.

Senator Hanger presided over the meeting and extended a welcome to all present. Each Council member introduced himself.

The Council has one vacancy, a member of the Small Business Commission to be appointed by the Senate Privileges and Elections Committee.

**Public Comment**

None

**Minutes**

The minutes of the October 8, 2003, meeting of the Council were approved and will be filed with the permanent records of the Council. As a reminder, draft minutes appear on the Internet as soon as possible but not later than ten working days following the meeting in accordance with § 2.2-3707.1 of the *Code of Virginia*. Final approved minutes are posted within three working days of final approval. Commonwealth Competition Council minutes are being posted in accordance with the above to the Council web page, <http://www.egovcompetition.com>.

**Funding of the Commonwealth Competition Council**

The Chairman reminded the members that the funding mechanism for continuing the Council had changed with its funding coming from 10% of new savings realized by state agencies in the preceding fiscal year as a result of Commonwealth Competition Council recommendations. This has proven problematic inasmuch as savings are normally used elsewhere in the budget before the Appropriations Act is enacted. The Chairman advised the Council that he had had some conversations with the staff and Mr. Brown, and he had asked Mr. Brown to look into this matter and bring alternatives for the members review.

Mr. Brown said that he had developed four options for consideration:

- |          |   |
|----------|---|
| Option 1 | To maintain the status quo, with the Council funded from identified savings after audit.  |
| Option 2 | To have direct funding, with the Council provided a direct appropriation with recovery mechanism for identified savings.  |
| Option 3 | To transfer responsibilities, where the duties and responsibilities of the Council are incorporated into another agency. This approach could be in combination with either funding alternatives in Options 1 and 2. |
| Option 4 | To eliminate the duties of the Council.   |

The discussion centered around whether placing the Council under another state agency would change the current mission; if the Council would lose its independent ability to review and make recommendations; if the Council were placed under another agency, what agency and under which branch of government (Executive or Legislative); and the lack of time to consider such a major decision. It was agreed that Option 1, the current funding mechanism, is problematic, and Option 4 was not acceptable. Consideration was given to Options 2 and 3 with the Council remaining in the Executive Branch and being placed under the Department of Planning and Budget. Mr. Brown was receptive to this which would also effect office space and overhead savings and allow for the staff to be placed under that department. It was discussed that a move under another agency, i.e. the Department of Planning and Budget, would not change the Council's mission, and that the Council would continue to operate as it does now. Currently the Council falls administratively under the Secretary of Administration. If the decision is made to be placed under the Department of Planning and Budget, it would be included in the Secretariat of Finance. Several members indicated they wanted to Council to maintain its independence in order to continue to make meaningful change in government. The Council did not want to do anything that would minimize its effectiveness in dealing with the Executive Branch of government and to continue to make cost cutting and efficiency in government recommendations. Development of a memorandum of understanding was also discussed. Because the General Assembly convenes next week, it was stressed the importance of making a decision at this meeting if the Council wanted to offer a budget amendment for consideration at this session.

The Council was told that the funding currently is from CCC carry-forward balances and an advance from the Department of Planning and Budget. This provides time for the Auditor of Public Accounts to certify savings. It is understood that the Council would repay the advance from future savings.

Although some members wanted more time to consider these options, Mr. Marquez moved, seconded by Senator Watkins, the Council selected Option 3, to incorporate duties and responsibilities of the Commonwealth Competition Council into the Department of Planning and Budget, with the understanding that the details would be worked out as the Council proceeds. It was the opinion of the Council that it should retain as much autonomy as possible. The motion passed, with Delegate Louderback voting no and Mr. Brown abstaining.

It was noted for the record that this action should not be viewed in any way to minimize the work of the Council. Specifically mentioned was the cost cutting caucus of the House of Delegates, and other actions that have resulted in savings for the Commonwealth and action by the Governor and General Assembly.

## Privatization Actions Included in the 2004-2006 Introduced Budget

Mr. Brown provided the Council with a listing of the 19 privatization items included in the Governor's introduced budget:

|   | # Items |   |
|---|---------|---|
| Department of Corrections                 | 7       | Authorization issuance of VPBA bonds for (1) construction of new medium security prison, (2) expansion of Deerfield Correctional Center, and (3) replacement of St. Brides Correctional Center, Phase II; DOC evaluating PPEIA for all three projects. (4) Continuation of commissaries, (5) food services, (6) Lawrenceville Correctional Center, and (7) medical services; DOC contracts with private companies to provide these services |
| Department of General Services            | 2       | (1) Renovate Washington Building;<br>(2) renovate & expand Finance Building   |
| George Mason University                   | 1       | Capital lease. GMU authorized to use T-Rex Properties LLC to construct 48,000± sq. ft. space in Prince William County to support its mission in bio-defense research/education programs   |
| Department of Medical Assistance Services | 3       | (1) Continuation of increase in hospital reimbursement adjustment factor to private providers who provide care to eligible individuals; (2) continuation increase of per diem rate paid to private nursing home providers who provide care to eligible individuals; and (3) implementation of test phase to develop a prototype disease state management program  |
| Department of Motor Vehicles              | 1       | Capital leases for facilities in 10 locations   |
| Secretary of Transportation               | 1       | Endorse use of Transportation Infrastructure Finance & Innovation Act, allowing Commonwealth Transportation Board to approve projects submitted by private entities which use federal credit assistance   |
| Virginia Department of Transportation     | 1       | Explore outsourcing of programs/projects with the expectation that additional services could be privatized  |
| Virginia Community College System         | 3       | Capital leases: (1) Tidewater Community College to acquire 70,000± space in Norfolk; (2) Northern Virginia Community College to acquire 25,000± space for its Alexandria Campus and (3) 25,000± space for its Annandale Campus.   |

## Innovative Cost Saving Initiative Virginia Information Technologies Agency

Mr. Bob Davidson, Director of Telecommunications and Network Services with the Virginia Information Technologies Agency (VITA), spoke with the Council on the VITA Voice Telecommunications Audit contract. He told the Council that this audit was a recommendation of the Commonwealth Competition Council some two years ago, and its purpose is to reduce agency expenditures, update inventories, identify

billing errors, and propose future savings. Possible findings include telecommunication vendor errors, VITA billing errors, and customer errors (such as failure to disconnect unused facilities). Through the invitation for bid (IFB) process, VITA received eight responses, and the winning contractor, Asyncrob Corporation, is a minority-owned firm located in Fairfax County. This contractor has extensive Telco/Military experience and their clients include the U. S. Naval Academy. Voice circuits only are included in this audit, no data lines. He said that there were over 100,000 voice and 78,000 Centrex lines. Mr. Davidson told the Council that each circuit will be physically “touched,” and the operation, features and functions of each will be verified. The contractor will then compare each physical circuit to the billing inventory.

Mr. Davidson said that VITA elected to use a pilot program to determine the viability of dissemination of the contract statewide. The three agencies selected were the Virginia Department of Transportation (large agency category), the Department of Forestry (medium agency) and the Department of Aviation in the small agency category. The pilots were to begin on January 12, 2004, and if justifiable savings are discovered through these audits, the contract will be expanded to all “in scope” agencies.

Asyncrob Corporation will receive 16.85% of reimbursement on billing errors and future savings on recommendations the company makes to the state agency that are implemented (for a maximum of 90 days). If no errors are found and no reimbursements, there will be no payments. The contractor will be paid solely from past billing error reimbursements or future savings. Inasmuch as the contractor will be paid after the agency receives any credits, there is no out-of-pocket expense to state agencies.

The scope of the contract will be extended to all VITA contract customers who may use the audit contract if desired. This includes direct-billed customers, colleges and universities, and localities.

### **Debt Collection Activities Office of the Attorney General of Virginia**

Mr. M. Seth Ginther, Senior Assistant Attorney General and Chief of the Commerce and Financial Law Section of the Office of the Attorney General, spoke with the Council on the activities of the OAG Division of Debt Collection (DDC). The General Assembly established this division on July 1, 1990, as a self-funded agency within the Department of Law. Since inception, DDC has paid its “own way” generating its entire budget from the fees retained from monies collected for the Commonwealth. This division currently employs 14 state employees, of which four are attorneys, six claims representatives, and four administrative/paralegals.

He explained the division’s collection process wherein the actual collection begins with the state agency to which the debt is owed. State agencies have 90 days from the account’s due date in which to pursue all internal collection procedures.

Some agencies have other procedures to secure payment and may elect to retain the debt in excess of 90 days. This could involve such matters as refusal to issue diplomas or licenses, or the ability to institute legal proceedings. Further Mr. Ginther said that where the debtor is paying a debt in periodic payments satisfactory to the agency, the account may be retained by the agency until the account is satisfied.

Unless an exception is made by the DDC, their collection procedures after the first 90 days call for all claims under \$3,000 to be referred to a private collection agency by the creditor agency. All claims over \$3,000 are referred to the DDC. All claims under \$1,000 are immediately sent to a third party for collection. Claims over \$1,000 remain in-house and a demand letter is immediately sent to the debtor demanding payment of the claim. If the debtor doesn’t respond to the demand letter, litigation is initiated.

Once a trial date is set, a judge decides whether or not the debtor owes the Commonwealth the money based on the evidence presented. If he rules in favor of the Commonwealth, judgment is taken against the debtor. If the debtor does not pay voluntarily, DDC begins the process of locating the debtor's assets for garnishment. Skip tracing technology is used which locates information about the debtor including employment information, real estate holdings, bank accounts, etc. While debtor's interrogatories are held at the DDC by a retired judge twice monthly, the debtor is also asked under oath the location of his assets. Once the debt is collected by the DDC, it retains its fee which is a previously negotiated amount up to 30% of the debt. The remainder of the debt is returned to the state agency to which the debt is owed.

Mr. Ginther told the Council that the DDC had a revenue goal of \$10 million for the 2003 fiscal year. It actually generated \$12.9 million in revenues. Contributing to the success of this process, Mr. Ginther said there were three initiatives making the DDC more competitive and efficient:

- engaging outside counsel for smaller dollar claims, allowing DDC to work on bigger dollar claims, thus generating more revenue for the Commonwealth
- engaging the services of private collection agencies to streamline the collection process
- supporting legislation to increase the cap for cases that DDC can send to private collection agencies to an amount greater than \$1,000

The Chairman told the Council that this was a matter the Council had been pursuing with the Office of the Attorney General since July 2002. At that time the recommendation of the Council was for the Attorney General to increase the \$3,000 threshold for referral of accounts to his office to \$10,000. After much discussion, the Council unanimously agreed to the motion that the Governor be requested to consider increasing the referral threshold to the Division of Debt Service from \$3,000 to \$15,000, allowing the Division to contract with private collection agents for the collection of debts amounting to less than \$15,000.

### **Employee Suggestion Program**

Mrs. Wilson spoke with the Council on the centralized vs. decentralized employee suggestion program (ESP) for State employees. The program was re-centralized in the Department of Human Resource Management in 2003. [Delegate Louderback, as a member of the Council, was patron of HB1214 in 2002 for the centralization of the ESP and the use of private sector individuals when an employee's suggestion was not approved. This bill was signed into law by the Governor and can be found as Chapter 780, 2002 Acts of Assembly.]

She reminded the members that ESP provides employees with an opportunity to be rewarded for innovative and creative ideas for improving state government. All full-time, part-time or wage/hourly employees may submit suggestions, and their anonymity is preserved for unbiased review. Eligible suggestions remain valid for one year from submission, may be made by employees individually or as a group, should propose practical improvements to some part of state government and be submitted timely, and specify recommended improvements including how they can be made. Suggestions not eligible are those that concern matters within the employee's authority or responsibility to implement, are matters already under consideration, deal with personal grievances or complaints, and involve policies or procedures not followed or not applied properly. Trends reflect that the number of suggestions has declined since the program was decentralized in 1994 as shown below:

|  | Fiscal Year |            |            |            |            |            |            |           |           |            |              |
|--|-------------|------------|------------|------------|------------|------------|------------|-----------|-----------|------------|--------------|
|  | 1994        | 1995       | 1996       | 1997       | 1998       | 1999       | 2000       | 2001      | 2002      | 2003       | Totals       |
| Total number of suggestions submitted:                     | 613         | 618        | 535        | 374        | 267        | 175        | 113        | 104       | 110       | 197        | 3,106        |
| <b># eligible suggestions:</b>                             |             |            |            |            |            |            |            |           |           |            |              |
| # employees:   |             |            |            |            |            |            |            |           |           |            |              |
| receiving cash   | 29          | 18         | 23         | 15         | 20         | 8          | 4          | 3         | 2         | 5          | 127          |
| leave  | 49          | 31         | 39         | 52         | 30         | 34         | 7          | 3         | 14        | 19         | 278          |
| certificate only   | <u>11</u>   | <u>14</u>  | <u>46</u>  | <u>53</u>  | <u>84</u>  | <u>2</u>   | <u>0</u>   | <u>0</u>  | <u>16</u> | <u>6</u>   | <u>232</u>   |
| <b>Subtotal eligible</b>                                   | <b>89</b>   | <b>63</b>  | <b>108</b> | <b>120</b> | <b>134</b> | <b>44</b>  | <b>11</b>  | <b>6</b>  | <b>32</b> | <b>30</b>  | <b>637</b>   |
| <b># ineligible suggestions</b>                            | <u>524</u>  | <u>555</u> | <u>427</u> | <u>254</u> | <u>133</u> | <u>131</u> | <u>102</u> | <u>98</u> | <u>78</u> | <u>167</u> | <u>2,469</u> |
| <b>Total</b>   | 613         | 618        | 535        | 374        | 267        | 175        | 113        | 104       | 110       | 197        | 3,106        |
| Estimated savings<br>(in thousands)<br>to the Commonwealth | \$214.5     | \$97.8     | \$234.1    | \$88.0     | \$136.2    | \$95.7     | \$16.0     | \$90.4    | \$24.0    | \$66.7     | \$1,063.4    |

Mrs. Wilson also noted that in the 2003 fiscal year, the Governor's *Ask Why* program was created and it generated 733 suggestions separate from ESP even though no rewards were given.

Reward and recognition from the ESP program are carried out through cash payments to the employee, leave from 1 to 5 days, or a certificate. Mrs. Wilson said that over the last decade generally 20% of those employees submitting suggestions elected to receive cash awards, 44% received leave, and 36% received certificates only.

In 2003 the Department of Human Resource Management revised the ESP policy and procedures, developed evaluation guidelines, communicated with agency ESP coordinators, developed a prototype employee memo, and provided an update of changes at the Human Resources Symposium. That agency utilizes the Internet to readily make available the relevant ESP forms, manuals, and applicable policies.

Delegate Louderback inquired as to the implementation of the re-evaluation process that state employees making proposals may access if their proposals are rejected by the evaluating agency. Mrs. Wilson stated that individuals from the private sector have been obtained to serve in this capacity when the circumstances dictate. To date, none has occurred.

One of the issues raised when this program was re-centralized to the Department of Human Resource Management was no additional FTEs or funding was provided. Due to downsizing, this becomes a portion of an employee's position. Delegate Louderback reaffirmed the need to continue with this program for in the last two years \$90,700 was saved.

### Authorities Study

Dr. Earl H. McClenney, Jr., former Vice Chair of the Council, updated the members on the continuing Authorities database development project. He indicated there were more than the 617 Authorities identified in House Document 50 (2001) and Senate Document 13 (2002) when the Council conducted the legislatively-

mandated studies of nonprofit and not-for-profit organizations in Virginia and their impact on state revenues. This continuing effort is labor intensive, and he has made available four interns from Virginia State University to work on this project. Telephone calls, written requests for information, keying in the data into an Access database are all being done at this time and the project should be finalized within a couple of months. Dr. McClenney said he was interested in providing the Council with a final document that not only provides key contact information, but the indebtedness by Authority.

The Council was provided with a prototype of the report, the example being the authorities in Culpeper, 6.73 sq miles, population 9,664. There are two authorities in this locality, an industrial development authority and a parking authority. While the parking authority has no debt obligations, the industrial development authority has 12 revenue and refunding bonds, with an outstanding balance of \$29,453,406 (based on 2000 filing with the Office of the Secretary of the Commonwealth).

Dr. McClenney reminded the Council that Section 2.1-71 of the *Code of Virginia* was repealed October 1, 2001, eliminating the requirement that each county, city and town and each authority, commission district, or other political subdivision of the Commonwealth to which money is appropriated, annually file with the Secretary of the Commonwealth a list of all bonds, notes, or other obligations issued by the entity. Information from 1999 and 2000 is being incorporated into this Access database.

### **Capitol Gift Shop**

Mrs. Robertson updated the Council on the idea of a Capitol gift shop. She advised that the General Assembly's Joint Rules Committee had approved the creation of the Virginia Capitol Preservation Foundation that is charged with raising \$20 million to support the renovation of the Capitol, a national treasure. She was pleased to report that the gift shop will be in the annex to the Capitol, and its profits will be incorporated in the Foundation. Although the directors of the Foundation will determine how funds are distributed, it was reported that the funds raised by the Foundation will be used for the purchase of furnishings and fittings in the renovated Capitol as well as landscape work, art conservation, and the creation of an endowment. She said the Foundation is being incorporated as a Virginia non-stock, non-member corporation with the Clerk of the House, Clerk of the Senate, and Secretary of Administration as its initial board. It was reported that the Foundation will apply to the Internal Revenue Service seeking tax-exempt status as a 501(c)(3) organization. With \$100,000 in seed money lent by the General Assembly, the Foundation will be hiring a consultant to manage the fundraising campaign and an administrator.

### **Staff report**

Mrs. Robertson reminded the Council that the annual Conflict of Interest statements were due the Office of the Secretary of the Commonwealth by January 15, 2004. She also discussed the automatic deposit of travel reimbursement program being implemented by the Department of Accounts. The goal is to have anyone receiving more than two travel reimbursements a year to sign up for this program. Thereafter a \$1 fee per check will be charged the agency for those electing to not participate.

At the suggestion of the office of the Auditor of Public Accounts, each member had been provided a copy of the most recent financial statements for the Council. Hereafter, a copy will be provided quarterly. Should there be any questions, the members were asked to contact Mrs. Robertson. She advised that the APA delayed speaking with the Council on suggested internal controls until a later meeting.

Mrs. Robertson advised that the Council offices had been relocated to smaller space in the Eighth Street Office Building. This has resulted in a significant savings on rent. She told the members that all efficiencies are being achieved in order to minimize costs.

She further advised that the Performance Institute with offices in San Diego and Washington, D. C., had asked the Council for help in securing speakers for their March 24, 2004, symposium in Richmond on best practices. The Performance Institute is a private, nonpartisan think tank improving government results through the principles of performance, competition, transparency, and accountability.

### **Recommendations**

The following recommendations were read into the record:

1. Color of state vehicles – efficiency measure in changing the color of VDOT vehicles from orange to white; recommending that the Governor extend this practice to other state vehicles unless security is involved.
2. Telecommunications audit – recommending that the Governor consider encouraging the Virginia Information Technologies Agency to make mandatory the use of the telecommunications audit

### **Next meeting**

The next meeting will be a strategic planning session. The Council will be polled to determine the date, and Mrs. Robertson will provide information on what will be planned. This is an opportunity for the Council to build on its two earlier strategic planning sessions. Members were asked to provide Mrs. Robertson with a listing of ideas they would like to be explored.

There being no further business, the meeting adjourned.

Emmett W. Hanger, Jr.  
Chairman